IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gary Ross Ricard

Serial No.:   09/843,566

Filed: April 26, 2001

Group Art Unit: 2179

Confirmation No.: 9483

For: IMAGE NAVIGATING BROWSER FOR LARGE IMAGE
                   AND SMALL WINDOW SIZE APLICATIONS

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

APPEAL BRIEF IN SUPPORT OF APPEAL

FROM THE PRIMARY EXAMINER TO THE BOARD OF APPEALS

Applicant herewith submits an appeal brief in support of the appeal to the Board
of Appeals from the decision dated October 21, 2004 of the Primary Examiner finally
rejecting claims 1-44. An appeal brief was previously filed May 19, 2005, but was
rejected as noncompliant with 37 CFR 41.37. The present appeal brief is being filed with
a one-month extension of time. Applicant believes an appeal brief fee is not required;

Docket No.: ROC92000184US1   1
Serial No.: 09/843,566

however, if the referenced deposit account was not charged in the previous appeal, the referenced deposit account should be charged at this time.

The appeal brief fee of $500.00 is:

    ____   Enclosed.

    _X_   Not required (fee paid in prior appeal).

    ____   Charged to Deposit Account No. 09-0465. A duplicate copy of this sheet is enclosed.

Docket No.: ROC92000184US1   2
Serial No.: 09/843,566

1. Real Party in Interest

International Business Machines Corporation is the real party in interest.

2. Related Appeals and Interferences

There are no related appeals or interferences pending with this application.

3. Status of the Claims

Appellant appeals from the final response in the October 21, 2005 Office Action, wherein claims 1-44 were finally rejected. Claims 1-44 are appealed herein and are set forth in Appendix A.

4. Status of Amendments

No amendments were filed subsequent to the final rejection of October 21, 2005.

5. Summary of Claimed Subject Matter

The present invention involves mechanisms that help users view individual images. In a first embodiment, a mechanism is disclosed that helps users view individual images that are large for viewing on the available window or screen. In a second embodiment, a mechanism is disclosed that helps sight-impaired users see small information elements. As shown on Figures 2A through 2C, and described in the accompanying text, a _single_ image is scaled up or down to help users view parts of that image. This single image is segmented, allowing the user to select individual ones of

these segments for viewing. While the single image is potentially made up of multiple objects or images, the segmentation is not performed based on the boundaries of any imbedded images.

Appellant is appealing from the Examiner's rejection of claims 1-21. Claim 1 is an independent claim and claims 2-8 depend from claim 1. Claim 9 is an independent claim, and claims 10-14 depend from claim 9. Claim 15 is an independent claim, and claim 16 depends from claim 15. Claim 17 is an independent claim and claims 18-24 depend from claim 17. Claim 25 is an independent claim and claims 26-30 depend from claim 25. Claim 31 is an independent claim and dependent claims 32-38 depend from claim 31. Claim 39 is an independent claim and claims 40-44 depend from claim 39.

The following is a concise explanation of the subject matter defined in independent claims 1, 9, 15, 17, 25, 31, and 39. This explanation, which is being provided to comply with 37 C.F.R. § 41.37c(1)(v), includes references to the specification (by page and line number), and to the drawings.

Claim 1 describes a processor (Figure 1, CPU 105 and lines 11 and 12 of page 6) connected to memory (Figure 1, memory 135 and line 12 of page 6) and a browser stored in the memory. The browser presents a first window and a second window to a user. The first window (e.g., thumbnail 205 of Figure 2B) is divided into a plurality of cells (e.g., cell 210 of Figure 2B), wherein each of the cells is associated with different segments of an image (e.g., image 200 of Figure 2A). The second window is used to display one of the different segments (e.g., 215) to the user. Support within the preferred embodiment can be found at page 7, lines 15-26 of Applicant's specification.

Claim 9 describes a handheld device (Figure 1 and line 8 of page 6) that includes a processor (Figure 1, CPU 105 and lines 11 and 12 of page 6) connected to memory (Figure 1, memory 135 and line 12 of page 6) and a browser stored in the memory. The browser presents a first window and a second window to a user. The first window (e.g., thumbnail 205 of Figure 2B) is divided into a plurality of cells (e.g., cell 210 of Figure 2B), wherein each of the cells is associated with different segments of an image (e.g., image 200 of Figure 2A). The second window is used to display one of the different segments (e.g., 215) to the user. Support within the preferred embodiment can be found at page 7, lines 15-26 of Applicant's specification.

Claim 15 describes a method in which a page is retrieved for display by a browser and an in which an image is produced therefrom (step 300 of Figure 3A and line 3-5 of page 8). The image is then scaled to fit a display window (step 303, Figure 3A, lines 11-16 of page 9 and step 305, Figure 3A, lines 18-20 of page 9) and then presented in scaled form to a user (step 307 of Figure 3A and line 4 of page 10).

Claim 25 describes signal bearing media (lines 9-15 of page 7) and a browser stored on the signal bearing media. The browser presents a first window and a second window to a user. The first window (e.g., thumbnail 205 of Figure 2B) is divided into a plurality of cells (e.g., cell 210 of Figure 2B), wherein each of the cells is associated with different segments of an image (e.g., image 200 of Figure 2A). The second window is used to display one of the different segments (e.g., 215) to the user. Support within the preferred embodiment can be found at page 7, lines 15-26 of Applicant's specification.

Claim 31 describes a method in which a page is retrieved for display by a browser and an in which an image is produced therefrom (step 300 of Figure 3A and line 3-5 of page 8). A first window and a second window are also presented to a user. The first

window (e.g., thumbnail 205 of Figure 2B) is divided into a plurality of cells (e.g., cell 210 of Figure 2B), wherein each of the cells is associated with different segments of an image (e.g., image 200 of Figure 2A). The second window is used to display one of the different segments (e.g., 215) to the user. Support within the preferred embodiment can be found at page 7, lines 15-26 of Applicant's specification.

Claim 31 describes a method in which a page is retrieved for display by a browser and an in which an image is produced therefrom (step 300 of Figure 3A and line 3-5 of page 8). A first window and a second window are also presented to a user. The first window (e.g., thumbnail 205 of Figure 2B) is divided into a plurality of cells (e.g., cell 210 of Figure 2B), wherein each of the cells is associated with different segments of an image (e.g., image 200 of Figure 2A). The second window is used to display one of the different segments (e.g., 215) to the user. Support within the preferred embodiment for presentation of the two windows can be found at page 7, lines 15-26 of Applicant's specification. Claim 31 also calls for a second image segment that is not displayed to the user (e.g., cell 220).

6. Grounds of Rejection to be Reviewed on Appeal

The Examiner has rejected claims 1-44 under 35 U.S.C. § 103(a) as being unpatentable over Anderson et al., U.S. Patent 6,097,431 (hereafter Anderson), in view of Angiulo et al., US Patent 6,275,829 (hereafter Angiulo). The sole issue is whether the Examiner is correct in asserting that claims 1-44 are obvious under 35 U.S.C. §103 over Anderson in view of Angiulo.

7. Argument

Rejection under 35 U.S.C. § 103

MPEP 706.02 states that "35 U.S.C. § 103 authorizes a rejection where to meet the claim, it is necessary to modify a single reference or to combine it with one or more others." However, there are two fundamental conditions precedent to a proper modification or combination. First, the Examiner must somehow account for all of the elements of the rejected claims [In re Fine, 5 USPQ2d 1596 (Fed. Cir. 1988)]. Second, the Examiner must be correct when asserting that given elements and limitations in the claims correspond to a particular aspect or aspects of one or more of the cited references. In the case of claims 1-44, the Examiner has failed to establish the second condition precedent because the Examiner is simply incorrect in asserting that certain elements and limitations of claims 1-44 correspond to a particular aspect or aspects of Anderson-Angiulo combination.

Applicant has maintained the position that Applicant's invention pertains to segmenting a single image while the Anderson reference pertains to viewing and handling multiple images. The Examiner's position appears to be that the Anderson images, when taken together on a single screen, can be thought of as a single image. Applicant gives the Examiner credit for his creative thinking, but stresses here that such a view of Anderson is not what the Anderson inventors contemplated nor does it solve the problem the Anderson inventors set out to solve. Simply put, Anderson pertains to viewing multiple images and single images, not parts of a single image. One need only consult the Anderson specification to confirm Applicant's point. Below Applicant has provided a few emphasis-added example passages.

Abstract, line 1

"A method and system for reviewing and navigating through images displayed on an image capture unit.

Abstract, line 13

"In one aspect, the method and system includes a four-way button to facilitate ease of movement between an image or cell and between pages of images."

Background, column 2, lines 47-51

"There is a need, therefore to be able to provide images on a display device witch will allow for the user to review various images that have been taken, while at the same time provide a display and read out for a particular image in an expeditious and straightforward manner."

Summary of the Invention, column 2, lines 3-6

"A method and system comprises images in an image capture unit comprising displaying images in a predetermined number of group types. Each of the group types indicates a number of images to be displayed at a time."

The following passage (at column 6, lines 17-31) of Anderson is a good description of the basic function of Anderson. Please note that there is no mention of viewing a part, portion, or segment of an image.

Initially one image is displayed on a display screen 280, by pressing the mode button 264 a first time four images are displayed on the display 280 and by pressing the mode button 264 again, nine images would be displayed. It should be understood, however, that the number of images per page and the number of group types could be any number and their use would be within the spirit and scope of the present invention.

Referring now to FIGS. 9 through 11, what is shown are group types 90, 90', and 90" that provide <u>one</u>, <u>four</u> and <u>nine</u> <u>images</u> displayed on the screen. On each of these group type 90 there is a highlighted area which encircles a particular image or 'cell' indicated by 320, 320' and 320", respectively, which indicates a particular image that can be viewed in more detail."

Referring now to Applicant's claims, each independent claim calls for an association between a window cell and a <u>segment</u> of an image. The asserted combination simply does not disclose, teach, or suggest a mechanism that aids the user in viewing an image segment. As has been shown above, the asserted combination is used to display a single image or a plurality of images. Accordingly, Applicant respectfully requests reversal of the Examiner's decision.

Summary

For each of the foregoing reasons, it is submitted that the Examiner's rejections of claims 1-44 were erroneous, and reversal of his decision is respectfully requested.

8. Claims Appendix

1.   (Original) An apparatus, said apparatus comprising:

a processor; and

memory, said memory being connected to said processor; and

a browser stored in said memory, said browser presenting a first window and a
second window to a user, said first window being divided into a plurality of cells, each of
said cells being associated with different segments of an image, said second window
being used to display one of said different segments to said user.

2.   (Original) The apparatus of claim 1 wherein said image is an original image.

3.   (Original) The apparatus of claim 2 wherein said image is a desired image of a
user-specified size.

4.   (Original) The apparatus of claim 3 wherein said desired image is larger than said
original image.

5.   (Original) The apparatus of claim 3 wherein said desired image is smaller than
said original image.

6.   (Original) The apparatus of claim 1 wherein said first window is a thumbnail
window.

7.   (Original) The apparatus of claim 1 wherein said second window is a display
screen.

8.   (Original) The apparatus of claim 1 wherein a scaled down version of said image is presented in said first window.

9.   (Original) A handheld device, said handheld device comprising:

a processor;

memory, said memory being connected to said processor; and

a browser stored in said memory, said browser presenting a thumbnail window and a first image segment of an image to a user, said thumbnail window being divided into a plurality of cells, a first one of said cells being associated with said first image segment, a second one of said plurality of cells being associated with a second image segment of said image, said second image segment not being presented to said user by said browser.

10.   (Original) The handheld device of claim 9 wherein said image is an original image.

11.   (Original) The handheld device of claim 10 wherein said image is a desired image of a user-specified size.

12.   (Original) The handheld device of claim 11 wherein said desired image is larger than said original image.

13.   (Original) The handheld device of claim 11 wherein said desired image is smaller than said original image.

14.   (Original) The handheld device of claim 9 wherein a scaled down version of said image is presented in said thumbnail window.

15.   (Original) A method, said method comprising the steps of:

        retrieving a page for display using a browser;
        producing an image from said page;
        scaling said image to fit a display window; and
        presenting said image in scaled form to a user using said browser.

16.   (Original) The method of claim 15 wherein said display window is a screen of a handheld device.

17.   (Original) A program product, said program product comprising:

        signal bearing media; and
        a program stored on said signal bearing media, said program presenting a first window and a second window to a user, said first window being divided into a plurality of cells, each of said cells being associated with different segments of an image, said second window being used to display one of said different segments to said user.

18.   (Original) The program product of claim 17 wherein said image is an original image.

19.   (Original) The program product of claim 18 wherein said image is a desired image of a user-specified size.

20. (Original) The program product of claim 19 wherein said desired image is larger than said original image.

21. (Original) The program product of claim 19 wherein said desired image is smaller than said original image.

22. (Original) The program product of claim 17 wherein said first window is a thumbnail window.

23. (Original) The program product of claim 17 wherein said second window is a display screen.

24. (Original) The program product of claim 17 wherein a scaled down version of said image is presented in said first window.

25. (Original) A program product, said program product comprising:

signal bearing media; and

a browser stored on said signal bearing media, said browser presenting a thumbnail window and a first image segment of an image to a user, said thumbnail window being divided into a plurality of cells, a first one of said cells being associated with said first image segment, a second one of said plurality of cells being associated with a second image segment of said image, said second image segment not being presented to said user by said browser.

26. (Original) The program product of claim 25 wherein said image is an original image.

27.   (Original) The program product of claim 26 wherein said image is a desired image of a user-specified size.

28.   (Original) The program product of claim 27 wherein said desired image is larger than said original image.

29.   (Original) The program product of claim 28 wherein said desired image is smaller than said original image.

30.   (Original) The program product of claim 25 wherein a scaled down version of said image is presented in said thumbnail window.

31.   (Original) A method comprising the steps of:

retrieving a page for presentation to a user by a browser;

producing an image from said page;

presenting a first window and a second window to said user, said first window being divided into a plurality of cells, each of said cells being associated with different segments of said image, said second window being used to display one of said different segments to said user.

32.   (Original) The method of claim 31 wherein said image is an original image.

33.   (Original) The method of claim 32 wherein said image is a desired image of a user-specified size.

34.   (Original) The method of claim 33 wherein said desired image is larger than said original image.

35.   (Original) The method of claim 33 wherein said desired image is smaller than said original image.

36.   (Original) The method of claim 31 wherein said first window is a thumbnail window.

37.   (Original) The method of claim 31 wherein said second window is a display screen.

38.   (Original) The method of claim 31 wherein a scaled down version of said image is presented in said first window.

39.   (Original) A method, said method comprising the steps of:

retrieving a page for presentation to a user by a browser;

producing an image from said page;

presenting a thumbnail window and a first image segment of an image to a user, said thumbnail window being divided into a plurality of cells, a first one of said cells being associated with said first image segment, a second one of said plurality of cells being associated with a second image segment of said image, said second image segment not being presented to said user by said browser.

40.   (Original) The method of claim 39 wherein said image is an original image.

41.   (Original) The method of claim 40 wherein said image is a desired image of a user-specified size.

42.   (Original) The method of claim 41 wherein said desired image is larger than said original image.

43.   (Original) The method of claim 41 wherein said desired image is smaller than said original image.

44.   (Original) The method of claim 39 wherein a scaled down version of said image is presented in said thumbnail window.

9. Evidence Appendix

There is no evidence attached for this appeal.
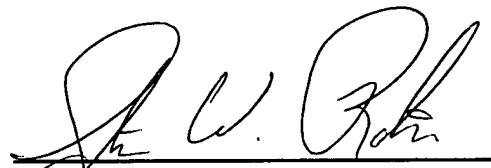
10. Related Proceedings Appendix

There are no related proceedings. Therefore, there are no copies of decisions rendered by a court of the Board attached here.

Appellant believes this appendix satisfies the requirements of 37 C.F.R. § 41.37(c)(x).

Respectfully submitted,

Date: <u>March 10, 2006</u>

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